

**STATE BOARD OF EQUALIZATION**

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August 31, 1995

A--- D---
President
T--- S---
XXX --- Avenue, Suite XXX
--- ---, CA XXXXX

**Re: T--- S---
No permit number**

Dear Mr. D---:

This is in response to your letter dated June 15, 1995 regarding the application of tax to data processing services you provide.

First, you ask how tax applies when you "extract information" from documents provided by your customer, you perform data entry, and then you "return this information back to the customer in electronic form via electronic transmission to [the customer's] computer...."

In answering your question, it is best for me to begin by explaining that a retailer owes sales tax on its retail sales of tangible personal property in California, measured by gross receipts, unless specifically exempt by statute. (Rev. & Tax. Code § 6051.) Tax does not apply to charges for services not constituting sales of tangible personal property. (Reg. 1501.)

You state that your activities involve data entry. Data entry is regarded as fabrication. (Reg. 1502(d)(2).) If you transfer such data entry to your customer in tangible form (such as on storage media, whether provided by you or the customer), or if you perform the data entry on your customer's computer, you are making a sale of tangible personal property, the charge for which would be taxable. (*Id.*) However, you state that you transmit information to your customer electronically. If the information is transferred by remote telecommunication (modem to modem), and the purchaser does not obtain any tangible personal property such as tapes, disks, or other storage media, the transfer does not constitute a sale of tangible personal property. (See Reg. 1502(f)(1)(D).)

In your next question, you ask how tax applies where a customer provides you with an electronic file of billing notices, and you perform a zip code correction and print the notices onto the customer's paper stock.

Regulation 1502.1 explains the application of tax to word processing. As explained in subdivision (a) of Regulation 1502.1, a person is regarded as selling tangible personal property when that person provides multiple copies of letters, manuscripts, or other documents (such as notices) where the documents are essentially form letters or notices with a slight variation which personalizes essentially the same document. Charges for providing such notices are taxable, without regard to whether the paper is supplied by you or by the customer. (Rev. & Tax. Code sec. 6006(b).)

The application of tax to mailing services is explained in Regulation 1504. Mailing services include addressing, enclosing, sealing, collating, affixing labels, blocking out, tucking or clasping envelope flaps, metering, affixing stamps, and other services rendered in preparing material for mailing. (Reg. 1504(b)(1).) You explain that after printing the billing notices, you "burst" (separate), fold, insert, meter, and deliver the notices to the post office. Such activities are mailing services as defined in Regulation 1504.

Persons engaged in the business of providing mailing services are consumers of materials used in performing those services. (Reg. 1504(b)(3).) Except for the word processing activity discussed above, if the activities you describe, such as the zip code correction and the folding, are services rendered in preparing material for mailing, charges for such activities constitute nontaxable service charges.

Next, you ask how tax applies where a customer provides you with an electronic file for conversion from one type of media to another (such as from 9-track mag tape to PC diskette). Generally, the conversion of customer-furnished data from one physical form of recordation to another physical form of recordation is considered a sale of tangible personal property. (Reg. 1502(d)(1).) However, a contract for the developing of original information from customer-furnished data is not a contract for the sale of tangible personal property; rather, it is a contract for a service. (Id.) The tangible personal property used to transmit the original information is merely incidental to the service.

We assume that the conversion to which you refer is the conversion of customer-furnished data from one physical form of recordation to another, and that it does not involve the processing of customer-furnished information as defined in subdivision (d)(5) of Regulation 1502. This is a sale of that tangible personal property, with respect to which you owe sales tax measured by your gross receipts.

If you have further questions, please feel free to write again. If you do write again, please provide a detailed description of each step involved in the activity about which you inquire. Please also provide copies of any contracts relevant to your inquiry.

Sincerely,

Kelly W. Ching
Staff Counsel

KWC:es

Encs.: Regs. 1502 & 1504

cc: --- --- District Administrator (--)